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SUBJECT: COLMIL: ABUSE CASES UNDER REVIEW; JUSTICE REFORM
IN PROGRESS

REF: A. 05 BOGOTA 1705
[1](#)B. BOGOTA 1850
[1](#)C. BOGOTA 1981

Summary

[1](#)1. (U) By late April the military justice system expects to complete investigations of ten soldiers charged with abusing 21 recruits in January at a military base in Tolima. Final rulings are not expected until mid-summer at the earliest, with further delays possible at multiple stages in the process. The lengthy procedures underline the need for military justice reform, which is underway albeit slowly. A first phase of reform already approved by Congress will reduce case backlogs by fast-tracking minor cases. A second phase to overhaul military justice more fundamentally is targeted for passage this summer. Separately, the civilian justice system is proceeding with its own investigations of the Tolima cases, for charges over which it has jurisdiction. Torture could be among them.

The Allegations

[1](#)2. (U) On January 25, in an apparent hazing ritual, 21 new army recruits were allegedly subjected to beating, branding, and sodomy at a military base in Tolima Department. Ten soldiers were implicated in the events, including the battalion commander, four lieutenants, four corporals, and a 'career soldier' (of unknown rank). The charges were split between military and civil judicial authorities, according to their respective jurisdictions. The COLMIL retains authority over charges deemed to be specific to the armed forces -- attacks on inferiors (by corporals and the career soldier), prevarication by omission (by the lieutenants), and abuse of authority via omission of reporting (by the battalion commander). The Fiscalia (civilian Attorney General) will rule on offenses of a human rights nature, specifically infliction of physical abuse and violent sexual acts. The Fiscalia is also said to be weighing possible charges of torture. Of the accused, the corporals and career soldier are in custody, while the lieutenants and commander have been released.

The Military Investigation

13. (U) According to the Executive Director of Military Penal Justice, Brigadier General Luis Fernando Puentes, the COLMIL began an internal investigation on January 27, two days after the alleged events. The General says a formal investigation is essentially complete, awaiting only a psychiatric evaluation requested by the defense counsel that he hopes will be finished by the end of April. However, there is a lengthy process ahead, comprising half a dozen stages of scrutiny from charging to judging to sentencing. In the best-case scenario, according to General Puentes, final rulings may emerge by July or August, but objections or requests at any stage by the defense counsel could cause delays.

The Need for Reform

14. (U) The cases' slow progress underlines the necessity of military justice reforms now underway led by General Puentes, Military Penal Justice unit. The reforms' first phase will cut case backlogs by enabling simpler cases to follow a shortcut process of fewer steps. According to Puentes, this phase was recently passed by Congress and awaits the President's signature. Moreover, local authorities from around the country have participated in training workshops and are ready to implement the new procedures as soon as they become law. The second phase, transforming Colombia's military justice from an investigative to an accusatory model and thereby accelerating case turnaround times, will likely be enacted this summer (Refs A and B). For cases as serious as the alleged abuses

at Tolima, the reforms should reduce turnaround time from 6-7 months to 2-3 months, says Puentes, while more minor offenses could be settled even more quickly.

The Fiscalia Investigation

15. (U) The Fiscalia's separate investigations began on March 16. Puentes said the COLMIL supplied 1132 pages of documentary evidence to the Fiscalia on March 8. A Fiscalia source is unable to estimate a target date for completion of its investigations. By law, investigations of more than three persons cannot extend beyond 360 days, but sources indicate that those time limits are often not observed in practice. Included in the Fiscalia's interrogations of the accused are questions pertaining to charges of torture. (Note: General Puentes claimed that torture would not be applicable to these cases, because the actions were not performed in a systematic way, but evidently the Fiscalia regards possible torture charges as worth investigating.)

Comment: Opportunity to Demonstrate Changes

16. (U) The Tolima abuse cases received ample coverage in the press, causing President Uribe to fire the COLAR's top commander (Ref C). Inherent in this high-profile mess, however, is an opportunity for the COLMIL to begin to demonstrate that the military justice system can work better -- first by administering the cases quickly and efficiently, secondly by meting out suitable sentences to overcome a civilian perception of military impunity, and finally by instituting strict ethics and controls with respect to humane treatment of soldiers and civilians alike to ensure abuses will not recur.

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